

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Acceleration of Broadband Deployment: |) | |
| Expanding the Reach and Reducing the Cost of |) | |
| Broadband Deployment by Improving Policies |) | WT Docket No. 11-59 |
| Regarding Public Rights of Way and Wireless |) | |
| Facilities Siting |) | |

COMMENTS OF FIBERTOWER CORPORATION

FiberTower Corporation (“FiberTower”) hereby submits these Comments in response to the Notice of Inquiry (“NOI”) on the above-captioned proceedings.¹

The NOI asks whether there is a need for coordinated national action for rights-of-way and wireless facilities siting, and if so, what role the FCC should play in conjunction with other stakeholders such as state, local and Tribal governments. More specifically, the FCC seeks information and factual data on several issues, including the timeliness and ease of permit processing, the reasonableness of permit charges, updates to laws to reflect current technologies and deployment practices, the uniformity of permit processing between different jurisdictions, and how rights-of-way and wireless facilities siting decisions influence build out and adoption of broadband.

FiberTower² supports the Commission’s efforts to expanding nationwide broadband deployment while reducing costs, delays, and inefficiencies. To aid in these goals, we suggest the following steps:

¹ In the Matter of Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting, WT Docket No. 11-50, *Notice of Inquiry* (rel. April 7, 2011) (“*NOI*”).

² Formed in 2000, FiberTower is the nation’s leading alternative carrier for middle mile and last mile backhaul. Backhaul is the transport of voice, video, and data traffic from a customer location (such as a cell site) back to a switching center or to the Internet. FiberTower operates a 100% facilities-based hybrid network using fiber optic and wireless assets. Its services include supplying backhaul for first responder networks and for Long

A. The FCC should survey state, local and Tribal governments, as well as federal agencies and the commercial sector.

Local and tribal governments are in the best position to determine their individual broadband needs and potential developments. As part of the national broadband expansion the FCC should have these local, state, and Tribal governments provide specific information on the current locations of wireless facilities, if any. These entities can also more easily provide information on their individual broadband needs, and identify gaps in coverage where it could be most beneficial.

The commercial communications industry can also assist in a proposed survey in helping to identify areas of coverage, as well as information on where communities have ready access to backhaul and towers in existing or proposed areas of developing wireless sites.

B. The FCC should map sites where tower and rooftop facilities are being used for wireless facilities *and* whether sufficient backhaul exists at those facilities to support the multiple needs in the area.

Comprehensive mapping of tower and rooftop wireless facilities would reveal substantial economic waste and improper national security planning. Multiple entities built towers and backhaul systems in the same area, yet such facilities are not robust enough to support other area needs. Moreover, they were not built to gain efficiencies of scale since the parties, in large part, have not been provided the tools or organized incentive to cooperate with each other in the provisioning of backhaul services. Such facilities often were not designed for physical diversity, particularly problematic at a time when the country is struggling to fund the national first

Term Evolution (LTE) mobile networks. FiberTower possesses over 14,000 fiber optic miles, enjoys access to over 100,000 towers and buildings through Master Licensing Agreements with the largest tower companies in the U.S., has an extensive national-scope spectrum footprint in the 24 GHz and 39 GHz bands, holds approximately 3,000 point-to-point licenses in the common carrier bands (11 GHz, 18 GHz, 23 GHz), operates its hybrid carrier-class microwave and fiber networks in 13 major markets, has customer commitments from nine of the leading commercial mobile carriers, holds partnerships with leading government contractors, and is a GSA Schedule 70 holder. For more information, please visit our website at <http://www.fibertower.com>.

responder network and other mission-critical regional or national networks.³

However, as FiberTower has suggested in other filings⁴, collocating on *physically diverse, multiple-use, shared-access backhaul sites* allows the process of obtaining higher bandwidths at existing ineffective locations to be much more affordable. These multiple-use sites are similarly cost-effective for building systems in areas previously unserved or underserved.

We ask the Commission to consider that these future broadband networks need highly-scalable and stable backhaul systems, as well as forward-thinking backhaul policies, to support any projected nationwide networks. Mapping the current facilities available for backhaul as well as wireless siting would be an essential step in comprehensive deployment plans.

C. The FCC should embark on a strong campaign to educate local, state, tribal, educational, and federal agencies about the direct connection between zoning and permitting delays and economic stagnation.

As FiberTower has very frequently experienced directly, local zoning boards and building owners/associations often delay the installation of small wireless antennas (i.e., less than 1-meter) for fixed wireless service. Zoning and permitting requirements that treat fixed wireless antennas differently than satellite or television antennas also often add unnecessary and substantial delays and costs to broadband deployment, particularly when network providers are unnecessarily forced to negotiate with multiple jurisdictions. Those costs then act to restrict needed broadband access to those communities.

To cut back on significant delays in deployment, the FCC should extend its very useful work in the Broadband Acceleration Initiative and use the data on infrastructure deployments to embark on a strong campaign to publicize the direct connection between zoning and permitting delays to the lack of infrastructure deployments and economic stagnation.

³ See, e.g., Legislative Hearing to Address Spectrum and Public Safety Issues, U.S. House of Representatives Committee on Energy and Commerce (July 15, 2011), available at: <http://energycommerce.house.gov/hearings/hearingdetail.aspx?NewsID=8790>

⁴ Please see, e.g., our filed Comments on the Wireless Backhaul Matter (particularly at pages 5-15) and Native Nations Matter, attached; the positions therein are additionally suggested for inclusion, as they are directly related to the ROW and Siting Matter. *See* In the Matter of Improving Communications Services for Native Nations by Promoting Greater utilization of Spectrum Over Tribal Lands, WT Docket No. 11-40, *Comments of FiberTower Corp.* (filed June 20, 2011); In the Matter of Amendment of Part 101 of the Commission's Rules to Facilitate the Use of Microwave for Wireless Backhaul and Other Uses and to Provide Additional Flexibility to Broadcast Auxiliary Service and Operational Fixed Microwave Licensees, WT Docket No. 10-153, *Comments of FiberTower Corp.* (filed Oct. 25, 2010).

- (a) Over-the-Air-Reception-Devices (“OTARD”) regulations. In particular, fixed wireless (which is a key backhaul tool) antennas 1-meter or smaller simply do not need to be subject to local zoning and permitting;
- (b) Pole Attachment policies, particularly the new regulations recently adopted by the Commission; and
- (c) Building access rules. As is well established in the Building Access proceeding,⁵ building owners and incumbents may not engage in exclusive building access arrangements that effectively block wireless siting on such building rooftops, thus denying the building occupants (and the surrounding community) broadband services.

Conclusion

FiberTower supports the Commission’s goals for timely and widespread infrastructure buildout and adoption of broadband. Toward that end, we ask the Commission to consider the comments above and work further to extending national guidelines for deployment accessibility on cost-effective, efficient, reasonable, and non-discriminatory terms to all communications industry participants.

Respectfully submitted,

/s/ Joseph M. Sandri Jr.

Joseph M. Sandri, Jr.
Angela Parsons

FiberTower Corporation
1730 Rhode Island Avenue, NW
Washington, DC 20036
(202) 223-1028

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⁵ In the Matter of Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket No. 99-21, First Report & Order and Further Notice of Proposed Rulemaking, FCC 00-366 (2000)(“Building Access Matter”).